

that changes in the tort system would lower insurance premiums.

In addition, findings of the National Center for State Courts show that there is no evidence of a national "litigation explosion," Silas states. According to a survey by that group of 25 states, filings for civil suits peaked significantly in 1981, but actually decreased between 1981 and 1984. Moreover, a study by the American Bar Foundation reported that punitive damages, especially large awards, are infrequent.

Silas examines how several states have addressed tort reform and provides an in-depth look at the experience of Washington State in its attempt to tackle the many-sided issue.

The Editor of Master Advocates Handbook, D. Lake Rumsey said that "a major goal of the project was to condense into one book the type of practical information which has been found most helpful in the seminars which NITA has conducted over the past ten years; another goal was to organize the material in an outline format so that the information can be quickly digested and reviewed."

Master Advocates' Handbook (384 pp.) is available in a hardcover edition for \$59.95 plus shipping and handling. To order the book, contact National Institute for Trial Advocacy (NITA), 1507 Energy Park Drive, St. Paul, MN 55108 (800) 225-6482 or (612) 644-0323. A softbound student edition is available to law schools for use in clinics and trial advocacy course work.

On a particular date the attorneys were lunching at the restaurant where the woman was employed as a waitress. She was not actually serving but was, on that date, responsible for training the person who was serving them. Because of concern with dram shop liability, the restaurant had recently adopted a policy that no customer could purchase more than three (3) drinks absent management permission; the woman had advised her trainee of this fact. When the attorneys ordered their fourth luncheon cocktail, the trainee checked with the woman who told her to check with the manager for permission to serve the drinks; permission was granted. Upon ordering their fifth drink, however, the attorneys were again served but were also advised that under no circumstances could they be served more than five drinks pursuant to restaurant policy.

Upon receiving this information, the attorneys became incensed and asked their waitress whether her supervisor (the complainant) had given this order and advised that the complainant was always "cutting them off" because of a lawsuit they had against her husband. Several other unkind remarks were made about the woman and her husband before the attorneys eventually paid their bill, on which they wrote an additional sarcastic notation about the complainant.

It should be observed that at this point the attorneys, although behaving in an immature and obnoxious manner, were not in violation of the Code of Professional Responsibility. While it is hoped

Disciplinary Notes

Collaborative Efforts Produce Master Advocates Handbook

After three years of planning and development, the National Institute for Trial Advocacy (NITA) is proud to announce the release of its latest publication: the Master Advocates' Handbook.

Master Advocates' Handbook is the premier work on the art and skill of trial advocacy. It was developed for use by the serious advocate who desires the optimum in reading pleasure, as well as thoughts and theories regarding each phase of pretrial and trial litigation.

Attorney Harassment

A woman complained that two attorneys were harassing her at her place of employment.

The attorneys had once represented a creditor of the woman's husband, and the matter had been resolved by way of a settlement whereby the husband would make regular monthly payments to the creditor. Investigation revealed that the husband had indeed been making all payments and that the creditor was very satisfied with the arrangement and had no plans nor any desire to undertake further legal action on the debt.

that attorneys will at all times conduct themselves in a manner consistent with their professional status, the Disciplinary Board does not police attorneys' private lives or take action where no illegal conduct or other violation of the Code of Professional Responsibility is involved.

These particular attorneys, however, were not content with merely making fools of themselves. As they left the restaurant, the assistant manager noticed the comment written on their bill and advised them that she thought their conduct toward the employee had gotten somewhat out of hand. The attorneys responded by saying that the complainant had pushed them too far and that they were going to get a writ of garnishment against the woman's wages and have it served upon the restaurant manager, because the woman's husband owed money to their client. This threat was repeated at the conclusion of the conversation.

In that the husband's creditor had made no such request of these attorneys and because the husband was current in his payments on the debt, this threatened action came close to violating Disciplinary Rule 7-102(A)(1). There was absolutely no legal basis for the threat, and it was obviously intended solely to embarrass the woman employee. Attorneys may not utilize their training and expertise in the law simply to whimsically harass persons with whom they may have some petty disagreement. Furthermore, the obligation to represent one's clients with zeal does not diminish the attorney's concurrent obligation to treat all persons involved in the

legal process with courtesy and to avoid the infliction of needless harm.

The attorneys received letters of caution pursuant to Rules 8(b)(3)(iii) and to Rules 11(a)(7) of the Supreme Court Rules Governing Discipline.

Proper Preparation

An assistant district attorney was assigned to prosecute two juveniles in his county for delinquent acts committed by them in another county. The investigation of the matter was conducted by a deputy sheriff from the county in which the offense took place. The results of the investigation were then submitted to the juvenile probation officer of the attorney's county. The attorney, however, received only a copy of the original incident report; he was never provided with an arrest report or any other information from the investigating authorities.

Despite his lack of preparedness, the attorney elected to go forward with the adjudicatory hearing. The only persons for whom subpoenas were requested were the two juvenile victims, the father of one of the victims, and the police officer who took the initial report. No subpoenas were ever issued or served, however. It was only through a casual conversation with the attorney that the father of one of the victims learned of the adjudicatory hearing the day before it was to be held and by sheer luck that any witnesses appeared. The hearing against the main perpetrator was subsequently cancelled, because the parties entered

into a Consent Decree. The hearing against the correspondent was held and resulted in directed verdict of acquittal.

It was obvious that the attorney did not properly prepare his case. He did not seek access to all relevant police reports, did not subpoena all material witnesses and prepare his witnesses for their testimony at the hearing. The attorney blamed his failure to obtain the investigative report and arrest report upon the local police departments and juvenile probation officers, because they did not provide such documents to him. While it may be the law enforcement agencies' responsibility to forward all investigation materials and reports to the assistant district attorney, it is the attorney's responsibility to insure that he has all available evidence before him or her prior to formally instituting charges against an individual and certainly before proceeding to trial. The attorney did not attempt to determine if he had all of the relevant materials and did not double check to insure that his witnesses were under subpoena or at least notified of the hearing date.

The attorney's conduct was close to being violative of Disciplinary Rule 6-103(A)(2), which prohibits an attorney from handling a legal matter without preparation adequate under the circumstances. He received a letter of caution urging him to be more cognizant of his responsibilities as a lawyer and prosecutor and to insure that his future cases were properly prepared and presented.